

EXHIBIT 44

State of New York
Courts of New York

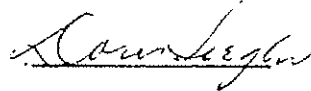
I, Jack Kirby, being first duly sworn do hereby depose
and say:

(1) At the request of Charles Goodman and Charles
Brainard, I have related the facts concerning the creation
of Captain America and my work in general at that time to
Lili Cohen who has typed up this history, and after I read
it over and made a few additions, retyped it on the attached
pages.

(2) To the best of my present knowledge, recollection,
information and belief, the facts therein are true and give
a fair and accurate summary of the situation at that time.


Jack Kirby

Subscribed and sworn before me this ¹²~~11~~ day of July, 1966.


Notary Public

DORIS STEIN
Notary Public, State of New York
No. 24-8990700
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1967



MARVEL 002124

CONFIDENTIAL

MARVEL0000350

Before the late 1930's or possibly the early 1940's I had been working for a small newspaper syndicate which served 700 weekly papers. Then I went to work at Max Feischer's studio where I was doing Popeye and Betty Boop. With the newspaper syndicate (Lincoln Newspaper Syndicate) I did three weekly comic strips and an editorial cartoon: one was a secret agent strip *THIS MAY BE* → (Sgt. Riley?), a futuristic strip and Socco the Sea Dog.

I met Joe Simon at a place called Victor Fox just before I came here. He was here as a production man before I came here. We were artists for Fox and he might have been doing some production work too. I was hired by Joe Simon to come to work as an artist for Marvel, which was then called Timely, shortly before World War II began, probably in late 1939 or early 1940. I believe Joe Simon was an editor at the time in charge of production of the comic magazines. I was hired as an artist to work full time on a regular salary to help create comic magazines and characters. The offices at that time were in the McGraw Hill Building. There were no set comic characters as such at Timely at the time I was hired. They were created by us to produce the comic magazines. Many of the characters were not in existence at the time and had to be produced from the top of our heads. The characters that were becoming the strongest were the super-man-type characters. These were the strongest selling types as the country was beginning to be in a patriotic stir; military names such as Major..., Captain..., etc. were saleable.

J.K.
7/12/66

MARVEL 002125

Discussions took place in the old McGraw Hill offices practically every day on the basic creation of characters and the framework in which to present them: what type of villain would they need to face the personalities involved and the type of gadget to be used. The characters began to evolve from those discussions; there were sketches made of the characters and their costumes, and these were changed and modified until they assumed what we considered the correct appearance of the product we sought. We used Hitler and the Nazis as perfect villains. There was also the matter of remodeling a character. We first drew the Captain America shield, for example, as a tricornered shield, and there was a discussion as to whether it should be circular. There were scales to be put in the upper chest part of the figure; it was a popular form for the decoration of a super-hero. The discussions were primarily between Joe Simon and myself in the Timely office. This was the beginning of our partnership because we worked so well together. There was an exchange of ideas until we had a finished product that we believed would gain reader interest. In the course of the discussions we first evolved a main character and then began to build around him. I suggested the use of a side-kick whom we named Bucky. Joe designed the type of lettering to be used on the Captain America cover; it was the only thing I couldn't do. All my work for Timely was basically super-hero oriented. Hurricane was a fantasy figure with super powers. Tuk the Cave Boy was an experiment, a 6-page feature which never gained the interest that the super-type did. All of this work was part of my regular duties for Timely, just as Joe's

J/K 7/12/66

MARVEL 002126

production was. He would do lettering, paste-ups, he would scale covers to size. All of the work that we did together was done in the Timely offices, in fact, all of my work was done there, and as far as I know, all of Joe's was also done there (I think he was living in a hotel room at the time). The general outlines for Captain America we worked out together. There were times when I would come up with a theme that we both thought would make a good story, and I worked it out in its entirety. Joe was more preoccupied with other things as production editor, but sometimes he would suggest a story which I would work out. He was very busy and didn't have time to do any himself. I did Black Destroyer and The Vision at Timely as part of my work. In addition to my primary responsibilities and some editing toward the end of my stay, I would help others and everybody would help everybody else to get the work out. The actual discussions for the title of the strip Captain America ^{which Joe and I discussed} were analagous to the conversation I had later at Detective Comics when they were looking for a challenger magazine ~~which concerned men challenging the unknown~~. There were discussions about the symbol of the magazine. Linking the title to the theme, I suggested Challengers of the Unknown. I worked on Captain America for about 10 issues, maybe it was more I don't remember exactly now. I left Timely with Joe Simon to work on Detective Comics. I originated the Boy Commandos for them ~~then~~ and also the Newsboy Legion. I do not have any of my sketches of the original Captain America, Bucky and other illustrations because I never took them from the office.

7/12/66

MARVEL 002127

CONFIDENTIAL

MARVEL0000353

I felt that whatever I did for Timely belonged to Timely as was the practice in those days. When I left Timely, all of my work was left with them.

Date: July 12, 1966


Jack Kirby

State of New York
County of New York

Jack Kirby, to me personally known, appeared before me today, July 12, 1966, read over the foregoing four (4 pages), and before me did swear to the truth ^{of the facts set forth therein} ~~thereof~~, to the best of his knowledge, information, and belief, and in my presence, ^{he} did sign his name thereto.


Notary Public

DORIS SIEGEL
Notary Public, State of New York
No. 24-8990700
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1968

MARVEL 002128

CONFIDENTIAL

MARVEL0000354

Insertion #1

I asked the editors, Mort Weisinger and Jack Schiff, of DC what they wanted their magazine to represent. They said the magazine should represent men challenging the unknown. I said, there is your title, Challengers of the Unknown. This is close to my conversation with Joe as much as I can remember. I said, "What should this Captain character represent?" He said patriotism and America. I said, "Fine, why not Captain America?" These are not the exact words of the conversation, but they are the substance.

JK
7/12/66

MARVEL 002129

CONFIDENTIAL

MARVEL0000355

AFFIDAVIT

STATE OF NEW YORK }
COUNTY OF NEW YORK } SS.:

I, Jack Kirby, being first duly sworn, do hereby depose and say:

- (1) At the request of Charles Goodmann and Charles Brainard I have related the facts concerning the creation of Captain America and my work in general at that time to Lili Cohen who has typed up this history and after I read it over and made a few additions, re-typed it on the attached pages.
- (2) On reading over the re-typed pages before signing them, I added in my handwriting the comment on unnumbered page 1 concerning Sgt. Riley, added the phrase "which Joe and I discussed" after 'Captain America' on page 3, and had the typist add an insert (which is typed on a separate sheet as "Insertion #1" and added after page 4) in place of the phrase "which concerned men challenging the unknown" on page 3 which I crossed out. I also made the several typographical corrections at the bottom of page 3, and I note that the notarial statement on page 4 was amended before the page was executed.
- (3) I want to make clear that the statements at the top of page 2 concerning the discussions in the old McGraw-Hill offices on the basic creation of characters refer to the general practice in the office at the time but also that they specifically refer to the way in which Captain America was created.

MARVEL 002130

CONFIDENTIAL

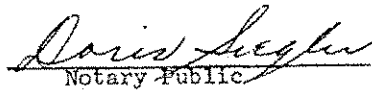
MARVEL0000356

(4) To the best of my present knowledge, recollection, information and belief, the facts set forth herein, and in the attached pages, are true and give a fair and accurate summary of the situation at that time.



Jack Kirby

Subscribed and sworn to before me
this 17 day of ^{AUGUST} ~~July~~, 1966.



Notary Public

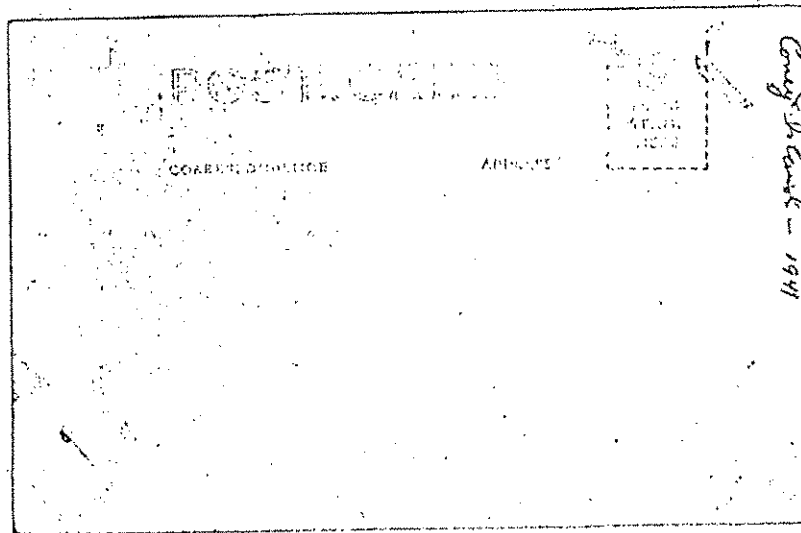
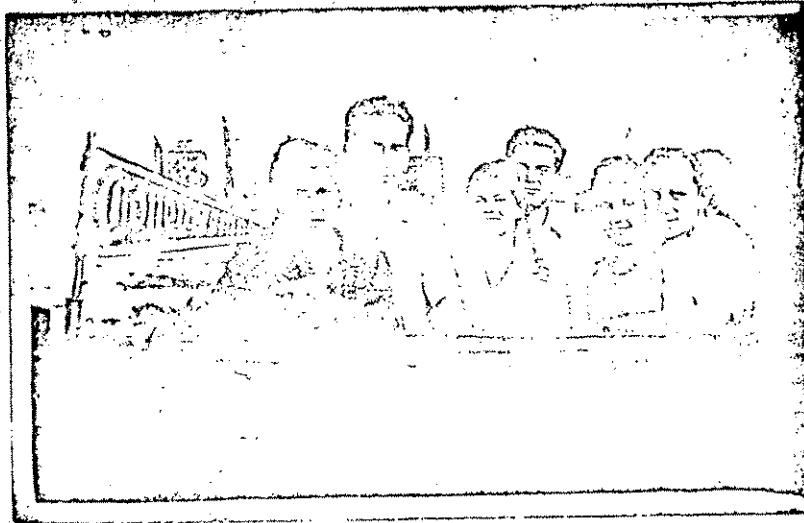
(Notarial Seal)

DORIS SIEGLER
Notary Public, State of New York
No. 24-8990980
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1966

MARVEL 002131

CONFIDENTIAL

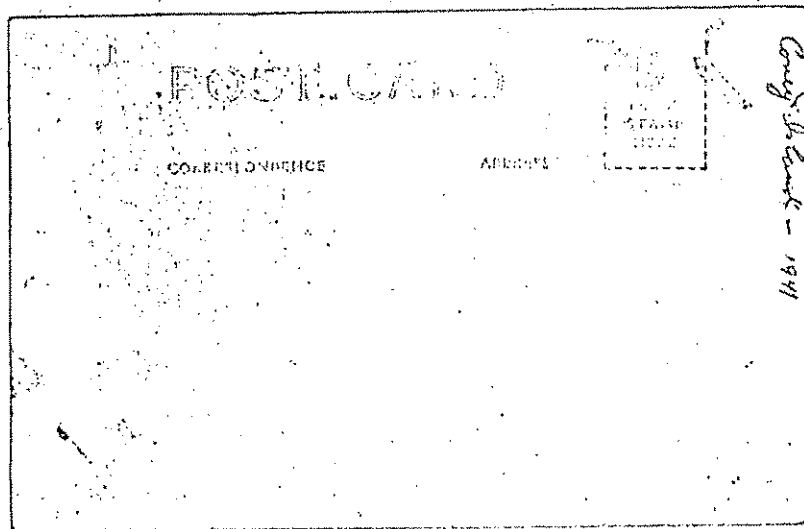
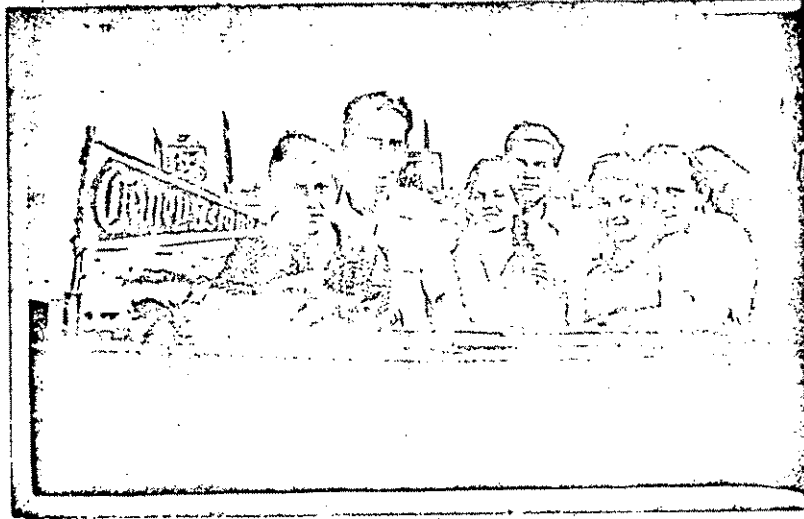
MARVEL0000357



MARVEL 002132

CONFIDENTIAL

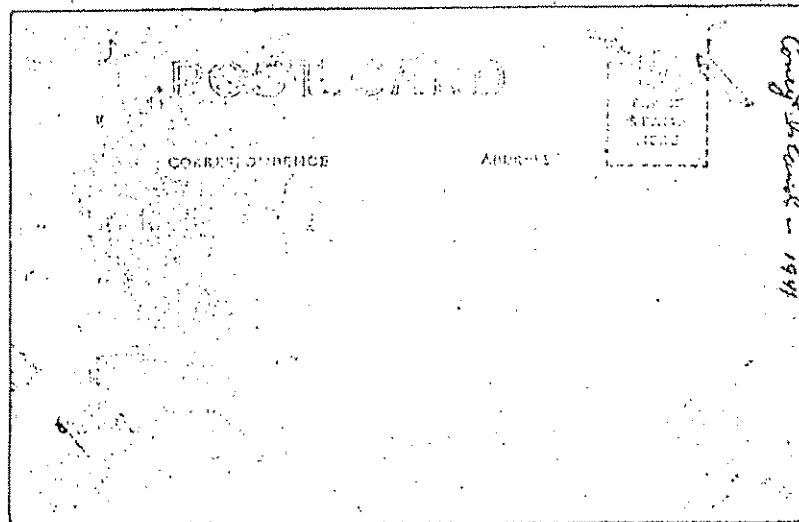
MARVEL0000358



MARVEL 002133

CONFIDENTIAL

MARVEL0000359



MARVEL 002134

CONFIDENTIAL

MARVEL0000360